

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13554, of the National Broadcasting, Co., Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3101.2) to permit additions to the existing studio and office building over a twenty-five year period in accordance with a master plan for the property prepared by NBC in an R-1-B District at the premises 4001 Nebraska Avenue, N.W., (Square 1722, Lot 1).

HEARING DATE: September 16, 1981  
DECISION DATE: October 7, 1981

FINDINGS OF FACT:

1. The subject site is located on the east side of Nebraska Avenue at its intersection with Tilden Street. It is known as 4001 Nebraska Avenue, N.W. It is in an R-1-B District.

2. The site consists of 315,810 square feet or 7.25 acres in land area. It has sixty feet of street frontage on Nebraska Avenue. The site is shaped somewhat like a baseball diamond. Vehicular access for the site is from a 310 foot long driveway from Nebraska Avenue. There is a 222-car parking lot on the site. An additional 144 spaces are provided on the adjacent site of the National Presbyterian Church. The site is developed with a two-story brick structure and a radio tower. A ground and two-story addition is currently being constructed on the site. The existing structure totals approximately 124,000 square feet of floor area.

3. To the north of the subject site is the National Presbyterian Church in an R-1-B District. To the east of the site is Glover Archbold Park followed by C-3-A developed property and the McLean Gardens development in the R-5-A District, both fronting on Wisconsin Avenue. To the south and west of the site is U.S. Navy property.

4. The Board first granted the National Broadcasting Company a use variance to establish an office building and special exceptions to establish an office building and parking in Appeal No. 4159, public hearing June 1, 1955. In Appeal No. 5494, the Board granted a use variance to permit continuation and enlargement of accessory parking facilities after a change in the Zoning Regulations.

5. In BZA Appeal No. 8234, dated June 16, 1965, the board granted a use variance to permit an addition to the office building established under Appeal No. 4159. The existing building then contained 91,370 square feet and the addition provided an additional 16,280 square feet.

6. In Appeal No. 10120, dated November 16, 1970, the Board granted the applicant a use variance to permit a second floor addition to the addition permitted under Appeal No. 8234. That addition would have contained a floor area of approximately 8,140 square feet. Economic conditions existing at the time that Appeal No. 10120 was approved then made it unwise to proceed with construction. Consequently, that approval expired without the addition having been constructed.

7. In Appeal No. 12011, dated October 22, 1975, the applicant was granted a reinstatement of Order No. 10120 and additional permission to locate a temporary office structure upon the subject property for a period of two years during the period of construction of the proposed second floor addition. The original intent of the applicant was to utilize the temporary building for employees who were awaiting occupancy within the second-floor addition to the broadcast studio, which was then under construction. However, there has been an increase of staff over the past few years, and the main building is still fully occupied with no space to accommodate the occupants from the temporary building. Therefore, the applicant requested a two-year extension of the temporary building while NBC searched for a means to relieve its space concerns. This relief was granted by the Board in BZA Order No. 12539, dated March 7, 1978.

8. In Application No. 13222, dated July 28, 1980, the Board granted the applicant a use variance to permit a ground and two-story addition to the existing structure. One of the conditions of that Order was that before the Board would approve any additional applications, the applicant must first prepare a Master Plan for the site and present it to the Board.

9. The applicant now seeks approval of its new Master Plan so that it may construct additions to the existing studio and office building over a twenty-five year period in accordance with the plan. The first such addition would begin immediately with the construction of a third floor to be built in conjunction with the ground and two-story addition approved by the Board on July 28, 1980.

10. The applicant's plan has a twenty-five year time span and foresees expansion of the site in three phases. Each phase will be in the form of a contiguous addition to the present structure. Phase One will begin this year with the construction of a ground and two-story addition, pursuant to BZA No. 13222. Phase Two will also begin immediately with a third floor addition to the Phase One structure and would later add a fourth floor to that structure by 1985. Phase Two would be completed by 1990 with the construction of a new five-story addition. Finally, Phase Three calls for a further five-story addition by the year 2000.

11. The floor area of the facilities, as already approved by the Board, is 170,000 square feet, as compared to the ultimate gross floor area of 312,000 square feet proposed for the end of the twenty-five year period.

12. There are four divisions housed in the existing facilities: the local TV station, Network News, WRC-AM Radio, and WKYS-FM Radio. The present allocation of space is an average of 100 square feet per person for the major occupied building areas. This allocation of space will increase to 125 square feet per person and in Phase II and III to about 160 square feet per person. It is projected that the number of employees will increase from the present 575 to 857 in twenty-five years, representing an increase of forty-nine percent. The largest increase in number of employees is expected in news gathering and news coverage categories of Program Support and Technical Services. Some NBC facilities are now located at Wisconsin Avenue and K Street offices. A consolidation of some of these facilities is indicated.

13. The proposed master plan envisions a new 94,000 square foot, five-story addition under Phase II to provide increased studio and office space. Additionally, 48,000 square feet of floor area is planned for Phase III to accommodate more administrative and technical service employees in five stories.

14. A 332-space parking garage is proposed for Phase II. Also, a 659 foot tower structure will be installed to improve broadcast range and capacity and will replace the existing tower. The tower will be 200 feet taller in order to transmit signals over local obstructions, mostly buildings, in the Northern Virginia and Maryland areas.

15. The property is located in an R-1-B District which does not allow the location of the subject facilities as a matter of right. However, the Board of Zoning Adjustment has consistently determined in past Orders that a requirement to adhere strictly to the regulations governing the R-1-B District would result in exceptional and undue hardship upon the owner of the property. Consequently, the Board has granted the needed variances to locate the facilities at the premises.

16. The essential feature of the master plan now before the Board is to present the long-range "ultimate development plan" on the site that would meet the needs of NBC and utilize the site to an optimum level. The master plan requires Board approval for staged development and variance from the use provisions to permit further additions to the studio and office buildings.

17. The applicant, NBC, is currently served by a network of major arterial streets, including Nebraska Avenue, Wisconsin Avenue, and Massachusetts Avenue, plus such secondary arterials as Van Ness Street. It also is served by the D5 and D6 Metrobuses on Nebraska Avenue, with additional bus service on Wisconsin Avenue and on Massachusetts Avenue. Metrorail service is scheduled to be available at Tenley Circle in late 1985. The station is about a ten minute walk from the subject site.

18. Traffic volumes in the immediate area have, in general, been slightly decreasing. Data furnished by the D.C. Department of Transportation shows that there has been about a four percent decline in average daily traffic on the streets in the proximity of NBC in the past five years. Peak hours conditions are at acceptable levels of service at all principal intersections in the area. At the two circles, Tenley (Wisconsin/Nebraska) and Ward (Massachusetts/Nebraska), the level of service is D, while at Nebraska Avenue and Van Ness Street the level of service is B.

19. Off-street parking, provided for or arranged by NBC, meets all of the needs of the company at the present time. There is no spillover of parked cars on residential streets. The company provides 222 spaces on a surface lot, which is supplemented with 144 spaces, specifically allocated and marked for NBC use, on the adjoining parking lot belonging to the National Presbyterian Church. The total of 366 spaces exceeds peak demands by about thirty to thirty-five spaces.

20. Except for an increase in the parking availability after Phase Two, the ratio of parking spaces to employees remains roughly constant through the end of the development program.

21. The traffic increases that can be expected to accompany the phased development were projected as nineteen trips after Phase One, fifty-five trips after Phase Two, and ninety-two trips after Phase Three. The addition of these trips to existing traffic on the street network, apportioned according to the probable trip distribution, would result in no change from existing levels of service.

22. In preparing the Master Plan, the applicant conferred with the Office of Planning and Development, the National Capital Planning Commission and the National Park Service. Many of the suggestions made during these discussions have been incorporated into the Plan.

23. The Office of Planning and Development, by report dated September 9, 1981, and at the public hearing recommended that the master plan and the use variances be approved subject to favorable reports from the National Park Service and the Department of Transportation. The OPD reported that the NBC master plan is intended to provide needed efficiency in its operations and to accommodate the technological advancements in the field of communication. It is anticipated by the applicant that the scope of the master plan, as presented, will meet its needs over a period of twenty-five years. The essential element of the master plan is the addition, in stages, of the existing building with garage space underneath, and the replacement of the communication tower. The subject site is large and secluded. The Board has granted use variances on the site in the past after making a finding that the strict application of the land use requirements of the Zoning Regulations would result in peculiar and exceptional practical difficulties. The proposed master plan expansion seeks the intensification of the same uses that are presently existing on the site for reasons of additional needs that are dictated by circumstances and technological advancements. The Board concurs in the OPD findings and recommendations.

24. The National Capital Planning Commission recommended against approval of the Master Plan until it is revised to deal with the problems of storm water runoff. A spokesman of the Commission stated at the public hearing, however, that the Commission would favor approval of the Plan if the Board made as a condition in its decision that the implementation of the Master Plan will not cause an increase in the storm water runoff from the site to the adjacent park. Also, the applicant must seek the review and permission from the National Park Service for all construction that will affect storm water runoff.

25. The National Park Service was in favor of the application, subject to the condition that the Park Service shall review and approve all storm water management related aspects of the Master Plan.

26. The applicant has agreed to grant a permanent scenic easement of a portion of the site to the National Park Service.

27. A representative of the Japanese Embassy testified at the public hearing that although the Embassy had no objection to the master plan it sought assurance from the applicant that the proposed antenna which is approximately 200 feet higher than the present one would not have an adverse impact on the television reception at the Embassy and if there were such an adverse impact that the applicant would provide technical assistance to correct same. He was so assured by the applicant.

28. The National Presbyterian Church, by letter of September 9, 1981, advised that its property advisory committee had reviewed the master plan and the plan raised no objections on the part of the church.

29. The Department of the Navy, by letter of July 20, 1981, advised that the master plan had been reviewed by the National Security Station and all major tenant Commands. It had no objections to the proposed additions to the existing studio and office building over the next twenty-five years. The proposal does not conflict with the mission or activities of the Navy Department.

30. The recommendations of the Advisory Neighborhood Commission and Department of Transportation were received after the record was closed on this application and are not part of the record.

31. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a variance, which requires a showing upon the owner of the property of a hardship that stems from the property itself. The Board concludes that the subject site is affected by an exceptional situation as a result of the fact that it is zoned for residential use while its size, shape, and proximity to other non-residential uses make it unfeasible for residential development. As the Board found in Appeal No. 10120, the site is peculiarly shaped and "almost land-locked" by institutional-type uses. In addition, as found in Order No. 4159 and reiterated in Order No. 13222, the site suffers from "inadequate access to street frontage and the close proximity of a high concentrated commercial office operation which has already had adverse affect upon residential property located as much as one-fourth mile distances." The Board further concludes that the application of the Zoning Regulations in this case would impose an undue hardship upon the property owner. The Board has repeatedly found that the subject site by reason of its shape and location suffers a hardship. The Board has recognized that the subject site may not be feasibly developed under the existing zoning; that there are no alternative plans which would result in an economical use of the property; that the elevation of the site is conducive to its use for television purposes; and that NBC has technical operations housed in the existing facility and has needs to expand its mechanical and office facilities at the site to keep up with increases in local broadcasting and with advancements in technology. Other than NBC's increasing need to expand its facilities, the conditions affecting the subject site under which the Board previously found applicant to have met its burden as to "peculiar and exceptional and undue hardship" have remained unchanged.

The Board further concludes that the proposed use will not cause substantial detrimental to the public good. As the Board found in Order No. 4159, and as it reasserted this finding in Order No. 13222, the NBC use is entirely self-contained, quiet, and unobtrusive because of low height and screening of other commercial use buildings. The Board concluded that the requested use variance would not be detrimental. The proposed additions in the Master Plan will not alter this conclusion. The maximum proposed building eave height is only thirty-one feet from its point of measurement. The present structure occupies only fourteen per cent of the 7.25 acre site. The proposed additions would increase the coverage to twenty-six per cent, which is below the forty per cent maximum allowed under R-1-B zoning. Also, the applicant has incorporated many suggestions and ideas into the Master Plan to preserve the natural beauty of the area.

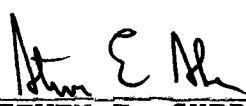
The Board concludes that the variance, as conditioned herein, can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The additions shall be phased and constructed in accordance with the master plan marked as Exhibit No. 10 of the record.
2. The applicant shall secure the approval of the Director of the National Capital Region of the National Park Service for the proposed storm water drainage into Glover Archbold Park.

VOTE: 5-0 (Douglas J. Patton, Charles R. Norris, William F. McIntosh, Walter B. Lewis and Connie Fortune to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

25 NOV 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.